UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 91118 / February 12, 2021

INVESTMENT ADVISERS ACT OF 1940
Release No. 5684 / February 12, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20223

In the Matter of **WINSLOW, EVANS & CROCKER, INC.,** **Respondent.**	**CORRECTED ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934 AND SECTIONS 203(e) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against Winslow, Evans & Crocker, Inc. ("Winslow" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

1. These proceedings arise out of breaches of fiduciary duty by Winslow, a dually-registered investment adviser and broker-dealer, in connection with Winslow's mutual fund share class and cash sweep selection practices that resulted in its receipt of three types of fees from its advisory clients' investments at times from January 2014 through October 2020: (1) fees received for advising clients to purchase and hold mutual fund share classes that paid fees pursuant to Rule 12b-1 under the Investment Company Act of 1940 ("12b-1 fees") instead of lower-cost available share classes that did not charge these fees; (2) fees received from its clearing broker as a result of advisory clients' investments in share classes of mutual funds for which the clearing broker paid revenue sharing instead of lower cost available share classes that were not eligible for such payments; and (3) fees received from its clearing broker as a result of sweeping its advisory clients' cash into certain money market mutual funds ("money market funds") instead of lower-cost available money market funds that did not result in the payment of fees to Winslow.

2. First, from January 2014 through February 2019 (the "Relevant 12b-1 Period"), Winslow purchased, recommended, or held for advisory clients mutual fund share classes that charged 12b-1 fees instead of lower-cost share classes of the same funds that were available to the clients. Winslow received 12b-1 fees in connection with these investments, but Winslow did not adequately disclose this conflict of interest in its Forms ADV or otherwise. Winslow, although eligible to do so, did not self-report its receipt of 12b-1 fees to the Commission pursuant to the Division of Enforcement's (the "Division") Share Class Selection Disclosure Initiative ("SCSD Initiative").[2]

3. Second, from January 2014 through October 2020 (the "Relevant Revenue Sharing Period"), Winslow purchased, recommended, or held for advisory clients mutual fund share classes for which it received revenue sharing payments pursuant to an agreement with from the third-party clearing broker it used for advisory client accounts (the "Clearing Broker"), instead of lower-cost share classes of the same mutual funds that were available to the clients for which the Clearing Broker would have paid no or lower revenue sharing to Winslow. Winslow received revenue sharing payments in connection with these investments, but did not disclose receipt of revenue sharing or the resulting conflict of interest in its Forms ADV or otherwise.

4. Third, from January 2014 through September 30, 2019 (the "Relevant Cash Sweep Period"), Winslow received revenue sharing payments from the Clearing Broker based on the amount of client assets invested in certain money market funds used as cash sweep vehicles.

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

[2] *See* Div. of Enforcement, U.S. Sec. & Exch. Comm'n, *Share Class Selection Disclosure Initiative*, https://www.sec.gov/enforce/announcement/scsd-initiative (last modified Feb. 12, 2018).

During the Relevant Cash Sweep Period, Winslow's agreement with the Clearing Broker also provided options to sweep clients' cash into money market funds that had lower costs to fund investors and did not pay revenue sharing to Winslow. Winslow did not begin to use these lower-cost, non-revenue sharing money market funds for its advisory clients until October 1, 2019. During the Relevant Cash Sweep Period, Winslow did not adequately disclose its receipt of money market fund revenue sharing or the resulting conflict of interest in its Forms ADV or otherwise.

5. During the Relevant 12b-1 and Revenue Sharing Periods, Winslow also, by causing certain advisory clients to invest in share classes of mutual funds that paid 12b-1 fees or resulted in revenue sharing payments from the Clearing Broker, when fund share classes were available to the clients that presented a more favorable value under the particular circumstances in place at the time of the transactions, breached its duty to seek best execution for those transactions.

6. During each of the Relevant Periods, Winslow also failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with its mutual fund share class and cash sweep selection practices.

Respondent

7. Respondent Winslow, Evans & Crocker, Inc., is a Massachusetts corporation headquartered in Boston, Massachusetts. Winslow has been registered with the Commission as an investment adviser since February 2005 and as a broker-dealer since December 1991. In its Form ADV dated August 7, 2020, Winslow reported that it had approximately $707.9 million in regulatory assets under management.

Mutual Fund Share Class Selection And 12b-1 Fees

8. Mutual funds typically offer investors different types of shares or "share classes." Each share class represents an interest in the same portfolio of securities with the same investment objective. The primary difference among the share classes is the fee structure.

9. For example, some mutual fund share classes charge 12b-1 fees to cover certain costs of fund distribution and sometimes shareholder services. These recurring fees, which are included in a mutual fund's total annual fund operating expenses, vary by share class, but typically range from 25 to 100 basis points. They are deducted from the mutual fund's assets on an ongoing basis and paid to the fund's distributor or principal underwriter, which generally remits the 12b-1 fees to the broker-dealer that distributed or sold the shares.

10. Many mutual funds also offer share classes that do not charge 12b-1 fees (e.g., "Institutional Class" or "Class I" shares (collectively, "Class I shares")).[3] An investor who holds

[3] Share classes that do not charge 12b-1 fees also go by a variety of other names in the mutual fund industry, such as "Class F2," "Class Y" and "Class Z" shares. As used in this Order, the term "Class I shares" refers generically to share classes that do not charge 12b-1 fees.

Class I shares of a mutual fund will usually pay lower total annual fund operating expenses over time – and thus will generally earn higher returns – than one who holds a share class of the same fund that charges 12b-1 fees. Therefore, if a mutual fund offers a Class I share, and an investor is eligible to own it, it is often, though not always, better for the investor to purchase or hold the Class I share.

11. During the Relevant 12b-1 Period, Winslow advised clients to purchase or hold[4] mutual fund share classes that charged 12b-1 fees when lower-cost share classes of those same funds were available to those clients. Winslow received $483,776.93 in 12b-1 fees that it would not have collected had its advisory clients been invested in the available lower-cost share classes.

Clearing Broker Revenue Sharing Payments

12. During the Relevant Revenue Sharing Period, Winslow had a revenue sharing contract with its Clearing Broker pursuant to which Winslow received revenue from the Clearing Broker based on the amount of client assets invested in certain share classes of certain mutual funds when lower-cost share classes of those same funds were available to those clients. Winslow advised clients to purchase or hold mutual fund shares in higher-cost share classes that resulted in revenue sharing payments from the Clearing Broker totaling $190,361.87 that Winslow would not have collected had the advisory clients been invested in the lower-cost share classes for the same mutual funds that were available.

13. The payments Winslow received from the Clearing Broker created a financial incentive for Winslow to recommend its clients buy or hold share classes that paid revenue sharing over other investments when rendering investment advice to its clients.

Cash Sweep Share Class Selection and Revenue Sharing Payments

14. A sweep account ("Sweep Account") is a money market mutual fund or bank account used by broker-dealers to hold uninvested cash (*e.g.*, incoming cash deposits, dividends, or certain investment returns) until the investor or its adviser decides how to invest the money. During the Relevant Cash Sweep Period. Winslow recommended that clients choose certain money market funds to hold uninvested cash in the clients' Sweep Accounts. A money market fund is a type of mutual fund registered under the Investment Company Act of 1940 and regulated pursuant to Rule 2a-7 under that Act. Money market funds generally invest in short term, highly liquid securities with limited credit risk, and are frequently used in Sweep Accounts as cash sweep vehicles. The investment yields and expense ratio of a money market fund will differ from fund to fund.

15. During the Relevant Cash Sweep Period, the Clearing Broker agreed to share with Winslow a portion of the revenue the Clearing Broker received in connection with certain money market funds offered to Sweep Accounts. Under this arrangement, the Clearing Broker offered

[4] In many cases, mutual funds permit certain advisory clients who hold shares in classes charging 12b-1 fees to convert those shares to Class I shares without cost or tax consequences to the client.

two different types of money market fund sweep options for Winslow to sweep its clients' cash: (1) certain money market funds that, pursuant to Winslow's clearing agreement with the Clearing Broker, would result in "distribution assistance" or revenue sharing payments from the Clearing Broker to Winslow based on the amount of Winslow clients' investments in these money market funds; or (2) money market funds that had lower costs and did not result in the Clearing Broker paying revenue sharing to Winslow.

16. The amount of revenue sharing Winslow received from the Clearing Broker differed depending on the money market fund that Winslow recommended to its clients and the amount of assets Winslow's clients and brokerage customers held in the fund. During the Relevant Cash Sweep Period, even though a money market fund that did not result in revenue sharing payments was always available to it, Winslow routinely recommended money market funds for cash sweep vehicles that paid it revenue sharing rather than those that did not. For example, for one money market fund Winslow recommended for many of its advisory clients, Winslow's clearing agreement provided that the Clearing Broker would pay Winslow from 40 to 65 basis points in revenue sharing, depending on the amount of Winslow's customer and client assets held in the fund. Winslow could also have recommended to its clients a money market fund for which Winslow would not receive revenue sharing payments and which had lower costs charged to fund investors compared to the money market fund that resulted in the Clearing Broker making revenue sharing payments to Winslow.

17. During the Relevant Cash Sweep Period, Winslow received $676,576.84 in payments from the Clearing Broker as revenue sharing for Winslow's clients' investments in money market funds, when Winslow could have instead used money market funds that did not pay revenue sharing and which had lower costs to clients.

18. The payments Winslow received from the Clearing Broker created a financial incentive for Winslow to recommend its clients purchase or hold a money market fund for their Sweep Account that paid revenue sharing over other investments when rendering investment advice to its clients.

Disclosure Failures

19. As an investment adviser, Winslow was obligated to disclose all material facts to its advisory clients, including any conflicts of interest between itself and its clients, that could affect the advisory relationship and how those conflicts could affect the advice Winslow provided its clients. To meet this fiduciary obligation, Winslow was required to provide its advisory clients with full and fair disclosure that is sufficiently specific so that they could understand the conflicts of interest concerning Winslow's advice about investing in different classes of mutual funds, or about investing in money market funds with different levels of revenue sharing and lower costs to clients, and could have an informed basis on which advisory clients could consent to or reject the conflicts.

20. During the Relevant 12b-1 Period, Winslow's Form ADV Part 2A brochure disclosed: "So called trail fees (12b-1 fees) may be derived from the sale to you of mutual fund shares and/or no-load variable annuities. These fees inure to the benefit of Winslow and our affiliates. Our IARs do not receive any benefit from 12b-1 proceeds received by the [sic] Winslow."[5] However, Winslow failed to provide any disclosure regarding the conflicts of interest that arose when it invested advisory clients in a mutual fund share class that would generate 12b-1 fee revenue for Winslow while share classes of the same funds were available that did not pay 12b-1 fees.

21. During the Relevant Revenue Sharing Period, Winslow's Form ADV Part 2A brochure did not disclose receipt of revenue sharing payments or the conflicts of interest that arose when it invested advisory clients in a mutual fund share class that would generate revenue sharing for Winslow while share classes of the same funds were available that did not pay revenue sharing. Beginning November 1, 2020, Winslow credited revenue sharing payments received on client holdings back to advisory client accounts on a going-forward basis.

22. During the Relevant Cash Sweep Period, from January 2014 to January 2015, Winslow's Form ADV Part 2A brochure did not disclose that Winslow received revenue sharing based on client holdings in Sweep Accounts. From January 2015 to March 2019, Winslow's brochures disclosed "Winslow may receive broker distribution assistance payments from [the Clearing Broker] based on customer assets held in money market funds and FDIC-insured deposit account sweep vehicles." Also, from May 2014 forward, Winslow provided advisory clients with a Cash Sweep Program Disclosure document that disclosed Winslow "may receive fees and benefits for services provided in connection with the Sweep Program, and we may choose to make available the Cash Sweep Vehicles that are more profitable to us than other money market mutual funds. A portion of these fees may be paid to your financial professional. We may receive distribution (Rule 12b-1), investment management, service fees and other compensation as a result of sweeping available cash into the Money Market Funds. These fees, which vary depending on the Money Market Fund (and class thereof) used, are paid directly by the Money Market Funds but ultimately borne by you as a shareholder in the fund."

23. During the Relevant Cash Sweep Period, Winslow did not adequately disclose all material facts regarding the conflict of interest that arose when it invested advisory clients in money market funds used in Sweep Accounts that paid revenue sharing to Winslow while lower-cost money market funds were available that did not result in the Clearing Broker making revenue sharing payments to Winslow.

24. Beginning September 30, 2019, Winslow converted its clients from existing money market funds used in Sweep Accounts that paid revenue sharing to Winslow, to a share class of a

[5] From January 2014 to January 2015, Winslow disclosed that "these fees inure to the benefit of Winslow, our affiliates and our Investment Advisory Representatives." However, Winslow's investment advisory representatives did not receive 12b-1 fees during the Relevant 12b-1 Period.

different money market fund that did not pay revenue sharing. Winslow completed the conversion in January 2020.

Best Execution Failures

25. An investment adviser's fiduciary duty includes, among other things, an obligation to seek best execution for client transactions.[6]

26. During the 12b-1 and Revenue Sharing Relevant Periods, by causing certain advisory clients to invest in share classes of mutual funds that paid 12b-1 fees or resulted in revenue sharing payments from the Clearing Broker when share classes were available that presented a more favorable value under the particular circumstances in place at the time of the transactions, Winslow violated its duty to seek best execution for those transactions.

Compliance Deficiencies

27. During each of the Relevant Periods, Winslow failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with its mutual fund and Sweep Account selection practices.

Winslow Evans' Remedial Efforts

28. Although Winslow Evans did not self-report pursuant to the SCSD Initiative even though it was eligible to do so, in determining to accept the Offer, the Commission considered other remedial acts promptly undertaken by Winslow Evans, including cooperation afforded the Commission staff.

Disgorgement

29. The disgorgement and prejudgment interest ordered in Section IV.C. is consistent with equitable principles, does not exceed Respondent's net profits from its violations, and is awarded for the benefit of and will be distributed to harmed investors to the extent feasible. Upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

[6] *See, e.g.*, Interpretive Release Concerning the Scope of Section 28(e) of the Securities Exchange Act of 1934 and Related Matters, Exchange Act Rel. No. 23170 (Apr. 28, 1986).

Violations

30. As a result of the conduct described above, Respondent willfully[7] violated Section 206(2) of the Advisers Act, which makes it unlawful for any investment adviser, directly or indirectly, to "engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client." Scienter is not required to establish a violation of Section 206(2), but rather a violation may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180,194-95 (1963)).

31. As a result of the conduct described above, Respondent willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder.

Undertakings

32. Respondent has undertaken to:

a. Within 30 days of the entry of this Order, review and correct as necessary all relevant disclosure documents concerning mutual fund share class selection, cash sweep vehicle selection, 12b-1 fees and revenue sharing.

b. Within 30 days of the entry of this Order, evaluate whether existing clients should be moved to a lower-cost mutual fund share class or lower-cost cash sweep vehicle and move clients as necessary.

c. Within 30 days of the entry of this Order, evaluate, update (if necessary), and review for the effectiveness of their implementation, Respondent's policies and procedures so that they are reasonably designed to prevent violations of the Advisers Act in connection with disclosures regarding mutual fund share class selection and cash sweep vehicle selection and in connection with making recommendations of mutual fund share classes or cash sweep vehicles that are in the best interests of Respondent's advisory clients.

[7] "Willfully," for purposes of imposing relief under Section 15(b) of the Exchange Act and Section 203(e) of the Advisers Act, "'means no more than that the person charged with the duty knows what he is doing.'" *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has "willfully omit[ed]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

d. Within 30 days of the entry of this Order, Winslow shall notify affected investors (*i.e.*, those former and current clients who were financially harmed by the practices discussed above (hereinafter, "affected investors") of the settlement terms of this Order by sending a copy of this Order to each affected investor via mail, email, or such other method not unacceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff.

e. Within 40 days of the entry of this Order, certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Robert Baker, Assistant Director, Asset Management Unit, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Division of Enforcement, Securities and Exchange Commission, 100 F. Street, NE, Washington, DC 20549.

f. For good cause shown, the Commission staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

IV.

In view of the foregoing, the Commission deems it appropriate, and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Section 15(b) of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

B. Respondent is censured.

C. Respondent shall pay disgorgement, prejudgment interest, and a civil penalty, totaling $1,851,787.08 as follows:

(i) Respondent shall pay disgorgement of $1,350,715.64 and prejudgment interest of $201,071.44, consistent with the provisions of this Subsection C.

(ii) Respondent shall pay a civil money penalty in the amount of $300,000, consistent with the provisions of this Subsection C.

(iii) Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties, disgorgement, and prejudgment interest described above for distribution to affected investors. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

(iv) Within ten (10) days of the entry of this Order, Respondent shall deposit the full amount of the disgorgement, prejudgment interest, and civil penalty (the "Fair Fund"), into an escrow account at a financial institution not unacceptable to the Commission staff and Respondent shall provide the Commission staff with evidence of such deposit in a form acceptable to the Commission staff. If timely deposit into the escrow account is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 [17 C.F.R. § 201.600] and/or 31 U.S.C. § 3717.

(v) Respondent shall be responsible for administering the Fair Fund and may hire a professional to assist it in the administration of the distribution. The costs and expenses of administering the Fair Fund, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.

(vi) Respondent shall pay from the Fair Fund to each affected investor an amount representing: (a) the 12b-1 fees attributable to the affected investor during the Relevant 12b-1 Period and the revenue sharing payments attributable to the affected investor during the Relevant Revenue Sharing Period and the Relevant Cash Sweep Period; and (b) reasonable interest paid on such fees, pursuant to a disbursement calculation (the "Calculation") that will be submitted to, reviewed, and approved by the Commission staff in accordance with this Subsection C. No portion of the Fair Fund shall be paid to any affected investor account in which

Respondent, or any of its current or former officers or directors, has a financial interest.

(vii) Respondent shall, within thirty (30) days of the entry of this Order, submit a Calculation to the Commission staff for review and approval. At or around the time of submission of the proposed Calculation to the staff, Respondent shall make itself available, and shall require any third-parties or professionals retained by Respondent to assist in formulating the methodology for its Calculation and/or administration of the distribution to be available, for a conference call with the Commission staff to explain the methodology used in preparing the proposed Calculation and its implementation, and to provide the staff with an opportunity to ask questions. Respondent also shall provide the Commission staff such additional information and supporting documentation as the Commission staff may request for the purpose of its review. In the event of one or more objections by the Commission staff to Respondent's proposed Calculation or any of its information or supporting documentation, Respondent shall submit a revised Calculation for the review and approval of the Commission staff or additional information or supporting documentation within ten (10) days of the date that the Commission staff notifies Respondent of the objection. The revised Calculation shall be subject to all of the provisions of this Subsection C.

(viii) Respondent shall, within ninety (90) days of the written approval of the Calculation by the Commission staff, submit a payment file (the "Payment File") for review and acceptance by the Commission staff demonstrating the application of the methodology to each affected investor. The Payment File should identify, at a minimum, (1) the name of each affected investor; (2) the exact amount of the payment to be made; (3) the amount of any *de minimis* threshold to be applied; and (4) the amount of reasonable interest paid.

(ix) Respondent shall complete the disbursement of all amounts payable to affected investors within ninety (90) days of the date the Commission staff accepts the Payment File unless such time period is extended as provided in Paragraph (xiii) of this Subsection C. Respondent shall notify the Commission staff of the date and the amount paid in the initial distribution.

(x) If Respondent is unable to distribute or return any portion of the Fair Fund for any reason, including an inability to locate an affected investor or a beneficial owner of an affected investor or any factors beyond Respondent's control, Respondent shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury in accordance with Section 21F(g)(3) of the Exchange Act when the distribution of funds is complete and before the final accounting provided for in Paragraph xii of this Subsection C is submitted to the Commission staff. Payment must be made in one of the following ways:

(a) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(b) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(c) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Winslow, Evans & Crocker, Inc. as the Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Robert Baker, Assistant Director, Asset Management Unit, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110, or such other address as the Commission staff may provide.

(xi) A Fair Fund is a Qualified Settlement Fund ("QSF") under Section 468B(g) of the Internal Revenue Code ("IRC"), 26 U.S.C. §§1.468B.1-1.468B.5. Respondent shall be responsible for all tax compliance responsibilities associated with the Fair Fund, including but not limited to tax obligations resulting from the Fair Fund's status as a QSF and the Foreign Account Tax Compliance Act ("FATCA"), and may retain any professional services necessary. The costs and expenses of any such professional services shall be borne by Respondent and shall not be paid out of the Fair Fund.

(xii) Within one hundred fifty (150) days after Respondent completes the disbursement of all amounts payable to affected investors, Respondent shall return all undisbursed funds to the Commission pursuant to the instructions set forth in this Subsection C. The Respondent shall then submit to the Commission staff a final accounting and certification of the disposition of the Fair Fund for Commission approval, which final accounting and certification shall include, but not be limited to: (1) the amount paid to each payee, with the reasonable interest amount, if any, reported separately; (2) the date of each payment; (3) the check number or other identifier of the money transferred; (4) the amount of any returned payment and the date received; (5) a description of the efforts to locate a prospective payee whose payment was returned or to whom payment was not made for any reason; (6) the total amount, if any, to be forwarded to the Commission for

transfer to the United States Treasury; and (7) an affirmation that Respondent has made payments from the Fair Fund to affected investors in accordance with the Calculation approved by the Commission staff. The final accounting and certification, together with proof and supporting documentation of such payment in a form acceptable to Commission staff, shall be sent to Robert Baker, Assistant Director, Asset Management Unit, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110, or such other address as the Commission staff may provide. Respondent shall provide any and all supporting documentation for the accounting and certification to the Commission staff upon its request, and shall cooperate with any additional requests by the Commission staff in connection with the accounting and certification.

(xiii) The Commission staff may extend any of the procedural dates set forth in this Subsection C for good cause shown. Deadlines for dates relating to the Fair Fund shall be counted in calendar days, except if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

D. Respondent shall comply with the undertakings enumerated in Section III, paragraph 32.a. – 32.e., above.

By the Commission.

Vanessa A. Countryman
Secretary